



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: March 14, 2016
MAHS Docket No.: 16-001305
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10 After due notice, telephone hearing was held on March 09, 2016, from Lansing, Michigan. Participants on behalf of Petitioner included [REDACTED]. [REDACTED] (Hearing Facilitator) represented the Department of Health and Human Services (Department).

ISSUE

Did the Department of Health and Human Services (Department) properly determined the Petitioner's eligibility for the Food Assistance Program (FAP)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner is an ongoing Food Assistance Program (FAP) recipient.
2. The Petitioner receives monthly Supplemental Security Income (SSI) in the gross monthly amount of \$ [REDACTED] and monthly State Supplemental Security Income (SSP) in the gross monthly amount of \$ [REDACTED]
3. On October 13, 2015, the Department sent the Petitioner a Redetermination (DHS-1010) with a due date of November 2, 2015.
4. On November 2, 2015, the Petitioner delivered his completed Redetermination (DHS-1010) form to the Department.

5. On November 2, 2015, the Department sent the Petitioner a Notice of Missed Interview (DHS-254) instructing him that it was his responsibility to reschedule his redetermination interview.
6. On November 5, 2015, the Department was unable to contact or leave a message with the Petitioner by telephone.
7. On November 9, 2015, the Department sent the Petitioner a Notice of Case Action with the Department's determination of a net income of \$ [REDACTED] with respect to the Food Assistance Program (FAP).
8. On December 30, 2015, the Department received the Petitioner's application for Food Assistance Program (FAP) benefits.
9. On January 21, 2016, the Department received the Petitioner's request for a hearing.
10. On January 22, 2016, the Department notified the Petitioner that he was approved for Food Assistance Program (FAP) benefits as of December 30, 2015.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

Clients must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (July 1, 2015), p 8.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. The Department uses documents, collateral contacts, or home calls to verify information. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. When documentation is not available, or clarification is

needed, collateral contact may be necessary. Department of Human Services Bridges Assistance Manual (BAM) 130 (July 1, 2015), pp 1-9.

The Department will verify shelter expenses at application and when a change is reported. If the client fails to verify a reported change in shelter, the Department will remove the old expense until the new expense is verified. Department of Health and Human Services Bridges Eligibility Manual (BEM) 554 (October 1, 2015), p 14.

The Petitioner was an ongoing FAP recipient as a group of one. The Petitioner receives monthly Supplemental Security Income (SSI) in the gross monthly amount of \$ [REDACTED] and monthly State Supplemental Security Income (SSP) in the gross monthly amount of \$ [REDACTED]. The Petitioner's adjusted gross income is \$ [REDACTED] and was determined by reducing his total monthly income by the \$ [REDACTED] standard deduction. No evidence was presented on the record that the Petitioner reported any dependent care expenses or allowable medical expenses to the Department. The Petitioner has a rent expense separate from his obligation to pay heating bills.

However, the Department only applied a credit against the Petitioner's income for his utility expenses and not his monthly housing expenses. When the standard heat and utility deduction is reduced by 50% of the adjusted gross income, this results in an adjusted excess shelter deduction of \$ [REDACTED]. When the adjusted gross income is reduced by the excess shelter deduction, this results in a net income of \$ [REDACTED]. A group of one with a net income of \$ [REDACTED] is entitled to an \$ [REDACTED] monthly allotment of FAP benefits.

On October 13, 2015, the Department sent the Petitioner a Redetermination (DHS-1010) with a due date of November 2, 2015. On November 2, 2015, the Petitioner hand delivered his redetermination forms to the Department, which can be verified by the Department's date stamp on the form provided in the Department's exhibits.

However, since the Petitioner dropped off his redetermination form on the same day his interview was to take place, it was not available to his caseworker at the time his redetermination interview was scheduled to take place. The redetermination interview was not conducted based on the erroneous assumption that the Petitioner had failed to return his completed redetermination forms in a timely manner. On November 2, 2015, the Department sent the Petitioner a Notice of Missed Interview (DHS-254).

On November 5, 2015, the Department discovered that the Redetermination form had been delivered to the Department on the due date, but the Petitioner could not be contacted by telephone and there was no opportunity to leave a voicemail message.

The Department will send a negative action when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed and the client has not made a reasonable effort to provide it. Department of Human Services Bridges Administrative Manual (BAM) 130 (July 1, 2015).

While it is understandable why the redetermination interview did not take place on November 2, 2015, no evidence was presented on the record that the Department made a reasonable attempt to reschedule it. Normally when a FAP recipient missed a redetermination interview, the burden of rescheduling falls on the recipient as indicated on the Notice of Missed Interview (DHS-254) form. But under these circumstances, this Administrative Law Judge finds that the Department had a duty to take additional steps to reschedule the redetermination interview and that the Petitioner made a reasonable attempt to provide the Department with the necessary information to determine his eligibility for continuing benefits.

On December 30, 2015, the Department received the Petitioner's application for FAP benefits. On January 22, 2015, the Department approved the Petitioner's application for FAP benefits as of his application date.

The Department prorates FAP benefits for the month of application, beginning with the date of application, when the group is eligible for the application month. Department of Health and Human Services Bridges Administrative Manual (BAM) 115 (January 1, 2016), p 26.

Therefore, the Department was acting in accordance with policy when it processed the Petitioner's December 30, 2015, application for FAP benefits despite the fact that his benefits should not have been closed before he re-applied.

The Petitioner argued that he had moved to a new residence on August 6, 2015, and that the Department had failed to apply his new shelter expenses towards his eligibility for FAP benefits.

The evidence on the record as a whole supports a finding that the Petitioner's housing expenses were not verified until October 1, 2015. Therefore, the Department properly excluded these expenses before October 1, 2015, as directed by BEM 554.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.

- For FAP only, the current level of benefits or denial of expedited service. Department of Human Services Bridges Administrative Manual (BAM) 600 (October 1, 2015), pp 3-4.

Furthermore, the Department of Human Services Bridges Administrative Manual (BAM) 600 (October 1, 2015), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

In this case, the Petitioner's request for a hearing was not received by the Department until January 21, 2015. The Petitioner has a right to a hearing protesting his FAP benefits through October 1, 2015, which was the date he supplied verification of his updated housing expenses to the Department.

In conclusion, this Administrative Law Judge finds that the Department failed to properly determine the Petitioner's monthly allotment of FAP benefits as of October 1, 2015, because it failed to include his verified housing expenses. The Department also improperly closed the Petitioner's FAP benefits for failing to participate in his redetermination interview. The evidence on the record indicates that the Department may be recouping an established debt against his FAP benefits but this was not relevant with respect to the Petitioner's January 21, 2015, request for a hearing.

The Petitioner also argued that he is not received the benefits he is entitled to as a result of improper treatment by his caseworker.

However, a complaint as to alleged misconduct or mistreatment by a state employee shall not be considered through the administrative hearing process, but shall be referred to the department personnel director. Mich Admin Code, R 400.903.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it determined the Petitioner's eligibility for the Food Assistance Program (FAP).

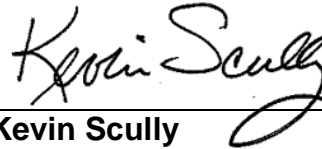
DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate a determination of the Petitioner's eligibility for Food Assistance Program (FAP) as of October 1, 2015.

2. Provide the Petitioner with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
3. Issue the Petitioner any retroactive benefits he may be eligible to receive, if any.



KS/las

Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]